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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,607	01/28/2005	Eiji Terada	264728US0PCT	8769
22850	7590	03/16/2010	EXAMINER	
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.			HOLLOMAN, NANNETTE	
1940 DUKE STREET			ART UNIT	PAPER NUMBER
ALEXANDRIA, VA 22314			1612	
NOTIFICATION DATE		DELIVERY MODE		
03/16/2010		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com  
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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/522,607	TERADA, EIJI	
	<b>Examiner</b>	<b>Art Unit</b>	
	NANNETTE HOLLOWMAN	1612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 26 October 2009.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-5 and 7 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-5 and 7 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____ .	6) <input type="checkbox"/> Other: _____ .

## DETAILED ACTION

Applicants' arguments, filed October 26, 2009, have been fully considered. Rejections and/or objections not reiterated from previous office actions are hereby withdrawn. The following rejections and/or objections are either reiterated or newly applied. They constitute the complete set presently being applied to the instant application.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office Action.

### ***Claim Rejections - 35 USC § 103***

Claims 1-8 were rejected under 35 U.S.C. 103(a) as being unpatentable over Kasuga et al. (EP 1013754) in view of Silicone innovation for hair care (Global cosmetic Industry, 01 May 02, Modified amino polysiloxanes). This rejection is maintained. Claim 6 and 8 has been cancelled.

### **Applicant's Arguments**

Applicant argues Kasuga et al. do not suggest selecting the claimed components, the claimed hair detergent provides unexpected results and one would not have combined the cited references with a reasonable expectation of providing rich

foaming upon shampooing and an excellent conditioning effect to the hair. Applicant's arguments have been fully considered but they are not persuasive.

**Examiner's Response**

In regard to selecting the claimed components, Kasuga et al. disclose a composition comprising (a) a surfactant, i.e. anionic, (b) a monoglyceryl ether having a linear or branched alkyl or alkenyl group having 4 to 12 carbon atoms and (c) a silicone compound (Abstract), therefore one would not need to select the components that are disclosed as the composition. The Silicone innovation for hair care article was used to disclose that DC 8500 Conditioning Agent provides superior conditioning in hair shampoos and increase color intensity, retention and shine, while increasing stability of the composition, therefore providing the motivation to one of ordinary skill to use as the silicone of Kasuga et al.

In regard to Applicant's alleged unexpected results, Applicant contends when KT 1989 amino-silicon; which is not within the claims silicones, is used, the hair detergent has inferior foaming performance, softness, and smoothness of the dry and wet hair. When looking to the Kasuga et al. (p. 5, Table 1), the reference compares products using similar criteria of the instant specification; volume of foam, foam quality and feel to the hair with a similar ranking scale of results from 10 expert panelists. Kasuga's invention product 3 gave very good foaming, foams were creamy and very smooth and the hair felt very good without creakiness and with smoothness. Therefore, Applicant's claim that the hair detergent comprising the 8500 conditioning agent provides an

*unexpectedly* rich foaming upon shampooing and gives an excellent conditioning effect to the hair does not appear to be supported, since the reference product gave similar results.

Even, assuming, purely *arguendo*, that unexpected results had been shown, Applicant's claims encompass more compounds, i.e. anionic surfactant, monoalkyl glyceryl ether and silicon compounds; and varying concentrations of these compounds, i.e. the anionic surfactant having a concentration ranging from 0.5% to 60 wt.%, monoalkyl glyceryl ether ranging from 0.1% to 30 wt.% and silicon compounds ranging from 0.05% to 4 wt.%, than that disclosed by Table 1 in the specification. Therefore the examples are not commensurate in scope with the instant claims.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NANNETTE HOLLOMAN whose telephone number is (571) 270-5231. The examiner can normally be reached on Mon-Fri 800am-500pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frederick Krass can be reached on 571-272-0580. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/N. H./  
Examiner, Art Unit 1612

/Frederick Krass/  
Supervisory Patent Examiner, Art Unit 1612